



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/736,119

12/15/2003

Lennart J. Brandel

7343-2

3619

7590

07/12/2005

JOHNS MANVILLE
Legal Department
10100 West Ute Avenue
Littleton, CO 80127

EXAMINER

PIZIALI, ANDREW T

ART UNIT

PAPER NUMBER

1771

DATE MAILED: 07/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/736,119

Applicant(s)

BRANDEL ET AL.

Examiner

Andrew T. Piziali

Art Unit

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 December 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) 11-17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-10, drawn to a woven, patterned glass fiber textile, classified in class 442, subclass 208.
 - II. Claims 11-17, drawn to a method of making a woven, patterned glass fiber textile, classified in class 139, subclass 59.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions of Group II and Group I are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the product as claimed can be made by another and materially different process. The product can be made without providing a patterned control Jacquard loom.
3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.
4. If the applicant elects claims directed to the product, and a product claim is subsequently found allowable, withdrawn process claims that depend from or otherwise include all the limitations of the allowable product claim will be rejoined. Therefore, upon the election of Group I, rejoinder will be considered upon indication of allowable subject matter pursuant to MPEP 821.04.

Art Unit: 1771

5. During a telephone conversation with Robert Touslee on 4/18/2005 a provisional election was made without traverse to prosecute the invention of Group I, claims 1-10. Affirmation of this election must be made by applicant in replying to this Office action. Claims 11-17 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

6. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Claim Rejections - 35 USC § 102/103

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1 and 4-9 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over USPN 6,267,151 to Moll.

Regarding claims 1 and 4-9, Moll discloses a woven patterned glass fiber textile (column

Art Unit: 1771

2, lines 24-26) comprised of a glass fiber yarn with a titer of from 130 to 150 tex ($\pm 10\%$) as the warp, and a glass fiber yarn having a titer ranging from 190 to 400 tex ($\pm 10\%$) as the weft (column 1, lines 32-42). Considering that Moll discloses that the titer may vary by $\pm 10\%$ (column 1, lines 41-42), Moll discloses that the titer may be from 117 to 165 tex as the warp and the titer may be from 171 to 440 tex as the weft.

Regarding claims 7-8, Moll discloses that the warp density may be between 4 and 10 threads/cm (column 1, lines 59-62).

Regarding claim 9, Moll discloses that the weft density may be between 3 and 8 threads/cm (column 1, lines 50-52).

Claim Rejections - 35 USC § 103

10. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over USPN 6,267,151 to Moll as applied to claims 1 and 4-9 above, and further in view of anyone of USPN 6,337,104 to Draxo et al. (hereinafter referred to as Draxo) or USPN 6,759,116 to Edlund.

Moll discloses that the fabric may be impregnated with a chemical formulation comprised of a starch binder and a synthetic binder (column 2, lines 24-25), but Moll does not specifically mention a polymeric binder. Moll is silent with regards to specific binders, therefore, it would have been necessary and thus obvious to look to the prior art for conventional binders. Draxo and Edlund provide this conventional teaching showing that it is known in the wall covering art to impregnate a wall covering fabric with a chemical formulation comprised of a starch binder and a polymeric binder to produce a wall covering with a distinct decorative image effect (see column 3, lines 1-31 of Draxo and column 1, lines 52-60 and column 3, lines 1-22 of Edlund). Therefore, it would have been obvious to one having ordinary skill in the art at the time the

Art Unit: 1771

invention was made to make the binder from polymeric binder material motivated by the expectation of successfully practicing the invention of Moll.

11. Claims 1-7 and 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over anyone of USPN 6,337,104 to Draxo or USPN 6,759,116 to Edlund in view of USPN 3,755,051 to Stumpf.

Regarding claims 1-7 and 9-10, Draxo and Edlund each disclose a woven patterned glass fiber textile comprised of a glass fiber yarn with a titer of from 139 to 142 tex as the warp, and a glass fiber yarn having a titer ranging from 165 to 550 tex as the weft (see entire documents including column 2, lines 40-61 of Draxo and column 2, lines 35-54 of Edlund).

Draxo and Edlund each disclose that many glass fiber yarns may be selected for use when producing the woven materials, but neither specifically mentions a titer of from 155 to 300 tex as the warp. Stumpf, however, discloses that it is known in the wall covering art to vary the denier (tex) of a fabric based on the desired depth of pile or degree of loft of the loops and the desired appearance of the fabric (see entire document including the paragraph bridging columns 4 and 5 and column 11, lines 49-64). Absent a showing of unexpected results from use of a titer of from 155 to 300 tex as the warp, it would have been obvious to one having ordinary skill in the art at the time the invention was made to vary the titer of the warp fiber, such as from 155 to 300 tex, because it is understood by one of ordinary skill in the art that the titer determines properties such as depth of pile, degree of loft of the loops, and appearance of the fabric, and because it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art.

Art Unit: 1771

Regarding claim 7, Draxo and Edlund each disclose that the warp density may be 3.15 to 3.4 threads/cm (column 2, lines 40-61 of Draxo and column 2, lines 35-54 of Edlund).

Regarding claim 9, Draxo and Edlund each disclose that the weft density may be 1.7 to 6.0 threads/cm (column 2, lines 40-61 of Draxo and column 2, lines 35-54 of Edlund).

Regarding claim 10, Draxo and Edlund each disclose that the textile may be impregnated with a chemical formulation comprised of a starch binder and a polymeric binder (column 3, lines 1-31 of Draxo and column 3, lines 1-22 of Edlund).

12. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over anyone of USPN 6,337,104 to Draxo or USPN 6,759,116 to Edlund in view of USPN 3,755,051 to Stumpf as applied to claims 1-7 and 9-10 above, and further in view of USPN 6,267,151 to Moll.

Draxo and Edlund each disclose that the warp density may be 3.15 to 3.4 threads/cm (column 2, lines 40-61 of Draxo and column 2, lines 35-54 of Edlund), but neither specifically mentions a warp density of in the range of 6 to 10 threads/cm. Moll, however, discloses that it is known in the wall covering art to use warp densities of between 4 and 10 threads/cm (column 1, lines 50-62). It would have been obvious to one having ordinary skill in the art at the time the invention was made to vary the warp density, such as from 4 to 10 threads/cm, because it is understood by one of ordinary skill in the art that the warp density determines properties such as appearance and weavability, and because it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art.

13. Claims 1-7 and 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over anyone of USPN 6,337,104 to Draxo or USPN 6,759,116 to Edlund in view of USPN 5,292,578 to Kolzer.

Art Unit: 1771

Regarding claims 1-7 and 9-10, Draxo and Edlund each disclose a woven patterned glass fiber textile comprised of a glass fiber yarn with a titer of from 139 to 142 tex as the warp, and a glass fiber yarn having a titer ranging from 165 to 550 tex as the weft (see entire documents including column 2, lines 40-61 of Draxo and column 2, lines 35-54 of Edlund).

Draxo and Edlund each disclose that many glass fiber yarns may be selected for use when producing the woven materials, but neither specifically mentions a titer of from 155 to 300 tex as the warp. Kolzer, however, discloses that it is known in the glass fiber art to vary the tex of a fabric, such as from 34 to about 1000 tex (with 272 tex specifically mentioned), based on the desired load resistance (see entire document including the paragraph bridging columns 4 and 5).. Absent a showing of unexpected results from use of a titer of from 155 to 300 tex as the warp, it would have been obvious to one having ordinary skill in the art at the time the invention was made to vary the titer of the warp fiber, such as from between 34 to 1000 tex, because it is understood by one of ordinary skill in the art that the titer determines the strength of the fabric, and because it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art.

Regarding claim 7, Draxo and Edlund each disclose that the warp density may be 3.15 to 3.4 threads/cm (column 2, lines 40-61 of Draxo and column 2, lines 35-54 of Edlund).

Regarding claim 9, Draxo and Edlund each disclose that the weft density may be 1.7 to 6.0 threads/cm (column 2, lines 40-61 of Draxo and column 2, lines 35-54 of Edlund).

Regarding claim 10, Draxo and Edlund each disclose that the textile may be impregnated with a chemical formulation comprised of a starch binder and a polymeric binder (column 3, lines 1-31 of Draxo and column 3, lines 1-22 of Edlund).

Art Unit: 1771

14. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over anyone of USPN 6,337,104 to Draxo or USPN 6,759,116 to Edlund in view of USPN 5,292,578 to Kolzer as applied to claims 1-7 and 9-10 above, and further in view of USPN 6,267,151 to Moll.

Draxo and Edlund each disclose that the warp density may be 3.15 to 3.4 threads/cm (column 2, lines 40-61 of Draxo and column 2, lines 35-54 of Edlund), but neither specifically mentions a warp density of in the range of 6 to 10 threads/cm. Moll, however, discloses that it is known in the wall covering art to use warp densities of between 4 and 10 threads/cm (column 1, lines 50-62). It would have been obvious to one having ordinary skill in the art at the time the invention was made to vary the warp density, such as from 4 to 10 threads/cm, because it is understood by one of ordinary skill in the art that the warp density determines properties such as appearance and weavability, and because it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art.

Conclusion

15. The following patents are cited to further show the state of the art with respect to wall covering Jacquard weaves:

USPN 5,433,997 to Land (see entire document including column 5, lines 34-54).

USPN 4,677,016 to Ferziger et al. (see entire document including column 2, lines 20-51).

USPN 4,526,830 to Ferziger et al. (see entire document including column 3, lines 42-57).

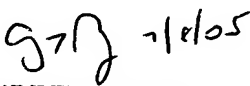
Art Unit: 1771

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew T. Piziali whose telephone number is (571) 272-1541. The examiner can normally be reached on Monday-Friday (8:00-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (571) 272-1478. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

atp


ANDREW T. PIZIALI
PATENT EXAMINER